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SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

SUMMARY RECORD OF THE 1470th MEETING

Held at Headquarters, New York,
on Friday, 6 June 1997, at 10 a.m.

Chairman: Mr. SAMANA (Papua New Guinea)

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The meeting was called to order at 10.30 a.m.

ADOPTION OF THE AGENDA

1. The agenda was adopted.

REQUESTS FOR HEARING

2. The CHAIRMAN said that Mr. Peter Caruana, the Chief Minister of Gibraltar, had expressed the wish to make a statement and suggested that the Committee should invite him to do so.

3. It was so decided.

4. The CHAIRMAN drew attention to the requests for hearing that had been circulated in aides-mémoires 5/97 and 8/97, relating to Western Sahara and to the Falkland Islands (Malvinas) respectively, and suggested that the Committee should accede to those requests.

5. It was so decided.

6. Mr. RIVERO ROSARIO (Cuba) said that, as so many documents had been submitted, his delegation had not been able to follow all of the Chairman's comments. He understood that acceding to the requests for hearing relating to Western Sahara and the Falkland Islands (Malvinas) would not pose any problem, but his delegation was particularly curious about the way in which the request for hearing in aide-mémoire 8/97, and the four attached documents would be dealt with. His delegation could state its position with regard to the requests for hearing only when it had ascertained the Committee's opinion on the first letter contained in that aide-mémoire.

7. The CHAIRMAN said that the persons concerned would be invited to speak as petitioners, in accordance with established practice.

DRAFT REPORT OF THE CHAIRMAN ON THE REGIONAL SEMINARS OF THE SPECIAL COMMITTEE (A/AC.109/2085)

8. The CHAIRMAN suggested that the Committee should adopt the draft report and transmit it to the Secretary-General.

9. It was so decided.

QUESTION OF THE DISSEMINATION OF INFORMATION ON DECOLONIZATION (A/AC.109/L.1857)

10. The CHAIRMAN recalled that, at previous meetings, some Committee members had asked the representative of the Department of Public Information questions about the dissemination of information on decolonization.

11. Mr. QADRUD-DIN (Department of Public Information) said that the consultations that he had held with some delegations as well as the research that he had carried out had shown that the United Nations Chronicle, which was

published by his Department, had contained no reference to the work of the Committee. It seemed that there had been a misunderstanding: actually the work of the Committee had been mentioned in the Diplomatic World Bulletin, an independent publication belonging to the Wall Street Transcript Publishing Group. He was not able to comment on the contents of that publication and expressed the hope that the clarifications he had given would satisfy delegations.

12. The CHAIRMAN drew the Committee's attention to draft resolution A/AC.109/L.1857.

13. Mr. SAMADI (Islamic Republic of Iran) said that the Committee had already heard the opinions of Committee members on the activities of the Department of Public Information (DPI) with regard to the dissemination of information on decolonization. He suggested that the wording of paragraph 1 of the draft resolution should be amended to replace the words "Approves the activities" - which suggested that the Committee "approved" the activities of DPI as they were being carried out at present, despite the reservations expressed by some members of the Committee - by the words "Takes note of the activities". His delegation was open to suggestions from other Committee members.

14. Mr. LEWIS (Antigua and Barbuda) said that his delegation had no objection to the proposed amendment, but considered that the wording "Takes note of the activities" might suggest that the Committee was satisfied with noting that activities were being carried out. The wording "Strongly encourages" would be more suitable.

15. Mr. SAMADI (Islamic Republic of Iran) said that he had simply wished to modify the tone of the paragraph in question. His delegation could agree to the word "Encourages" but recalled that various members of the Committee had not been satisfied with the work of DPI. If approval continued to be given to things as they stood, nothing would happen and other complaints would perhaps arise the following year.

16. Mr. TANOH-BOUTCHOUE (Côte d'Ivoire) said that the previous comment was not without interest, in the light of what was happening with regard to information within the Committee. The amendment proposed by the delegation of Antigua and Barbuda was largely covered by paragraph 2 of the draft resolution.

17. The CHAIRMAN suggested that paragraph 1 should be worded as follows: "Requests the Department of Public Information and the Department of Political Affairs of the Secretariat to continue to develop their activities in the field of the dissemination of information on decolonization;".

18. He informed the Committee that the delegation of Antigua and Barbuda and the Iranian delegation had agreed that the wording "Takes note of the activities" was more satisfactory and should be retained. Paragraph 1 would therefore read: "Takes note of the activities in the field of the dissemination of information on decolonization undertaken by the Department of Public Information and the Department of Political Affairs of the Secretariat;".

19. He suggested that the members of the Committee should adopt the draft resolution, as orally revised.

20. The draft resolution, as orally revised, was adopted.

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS (A/AC.109/L.1858)

21. The CHAIRMAN said that he appreciated the timely submission of the required information from the United Kingdom and the United States and suggested that draft resolution A/AC.109/L.1858 should be adopted.

22. The draft resolution was adopted.

QUESTION OF GIBRALTAR (A/AC.109/2057, A/AC.109/2084)

23. Mr. CARUANA (Chief Minister of Gibraltar), recalling the Spanish Government's assertion that the decolonization of Gibraltar could be carried out only through the restoration of the territory to Spain, said that Spain based its position on the principle that there could be no partial or total disruption of its territorial integrity and political unity. Yet it seemed obvious from an objective analysis of paragraph 6 of General Assembly resolution 1514 (XV), to which Spain referred in that regard, that it meant that the principle of self-determination could not be used to justify secession of part of the territory of a Member State, and did not apply to Gibraltar, which had ceased being Spanish in 1704 and had been ceded in perpetuity by Spain to the United Kingdom under the Treaty of Utrecht of 1713.

24. However, Spain declared its agreement with the United Nations doctrine on Gibraltar. He wondered how the principle of retrocession of territory, which had never been recognized in any official document of the Organization, could override that of self-determination. Similarly, he wondered how a third party could override the right of self-determination in a Territory if the administering Power that administered that Territory could not do so. In fact, the doctrine of the United Nations on Gibraltar, which was endorsed by international law, was that the right to self-determination applied to all Non-Self-Governing Territories, including Gibraltar, and that, as far as decolonization was concerned, only the principle of self-determination as enunciated in General Assembly resolutions 1514 (XV) and 1541 (XV) applied. Gibraltar, which was a Non-Self-Governing Territory, should be decolonized in accordance with the principle of self-determination, and not with that of territorial retrocession. It would therefore be desirable for the Special Committee to issue a statement clearly indicating the right of Gibraltarians to self-determination. The recognition of the right to self-determination would make it absolutely clear to all interested parties that, in all discussions concerning the Territory, the wishes of its people had to be respected. That did not mean that the Government of Gibraltar made the acceptance of its position by Spain a pre-condition for dialogue. It believed that any dialogue on that question should recognize Gibraltar's right to express its views in the same way as the other parties.

25. Furthermore, since dialogue between Spain and the United Kingdom implicitly denied the existence of the principal party, namely the colonized people of Gibraltar, and having decided not to participate in that dialogue, the Government of Gibraltar urged that, instead of recommending that the United Kingdom and Spain should strive to overcome their differences of opinion over Gibraltar, the Special Committee should call for a dialogue in which the people of Gibraltar would be involved and would play an active role.

26. Finally, of all the Non-Self-Governing Territories on the list established by the United Nations, Gibraltar was the only one whose international status was a matter of dispute between two Member States which were also members of a union (the European Union), of which Gibraltar itself was a juridically constituted member. It was inconceivable, in a Europe where concepts of sovereignty were disappearing, for the Spanish Government to claim that the question of Gibraltar was one of territorial integrity. It should review its relations with the Territory and adopt a decidedly European and forward-looking approach to the matter, rather than a nationalistic and backward-looking one. Spain had made a rapid transition to democracy and integration into Europe. It should be all the more capable of settling without further delay the question of Gibraltar.

27. Thirty years of bilateral dialogue had produced no results and there were only three years left to meet the Special Committee's target for the eradication of colonialism. If Gibraltar was to have any chance of making progress towards its decolonization, the Special Committee must take the initiative and promote a settlement by recognizing that the people of Gibraltar had a right to self-determination and to self-representation in any dialogue concerning them.

28. The CHAIRMAN said that the Committee had concluded its consideration of the item.

29. Mr. PEREZ-GRIFFO (Spain) recalled that the restoration of Gibraltar to Spanish territory had been an enduring aspiration throughout Spanish history.

30. Spain's claim, which was supported wholeheartedly by the Spanish people and by all Spanish political forces across the ideological spectrum, concerned both the Rock of Gibraltar and the Strait of Gibraltar, more than half of which had been gradually and illegally occupied by the United Kingdom throughout the nineteenth century.

31. He referred to three aspects of the question, starting with the validity of the Treaty of Utrecht and the limits imposed on British sovereignty. Noting that the members of the Committee were conversant with the historical background to the current colonial situation, he briefly recalled the contents of article X of that Treaty, which provided, inter alia, for a pre-emptive right for Spain under which the United Kingdom would be required to give priority consideration to Spain, were it to decide to give up Gibraltar. That clause not only excluded independence, but also prohibited any other formula, however imaginative, that Spain might not have endorsed. Therefore, in accordance with the Treaty of Utrecht, Gibraltar could only be British or Spanish. The Treaty of Utrecht had come into force nearly 300 years ago, but the principle "Pacta sunt servanda" and the international validity of the text were still recognized by the United Kingdom, Spain and the United Nations itself.

32. Secondly, referring to the United Nations doctrine and the full applicability of the principle of territorial integrity, he noted that the various relevant General Assembly resolutions showed that the restoration of the territorial integrity of the State implied the decolonization of Gibraltar.

33. Thus, General Assembly resolution 1514 (XV) of 14 December 1960 provided that the principles on which the process of decolonization was based necessarily had to be compatible: "Any attempt aimed at the partial or total disruption of the national unity or territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations".

34. That was reaffirmed in General Assembly resolution 2625 (XXV) of 24 October 1970 on the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, according to which, "any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter".

35. Successive resolutions of the General Assembly had therefore established the full applicability of the principle of the territorial integrity and decolonization of Gibraltar.

36. He also recalled two other General Assembly resolutions which dealt specifically with the question of Gibraltar. They were resolution 2353 (XXII), in which the General Assembly considered that "any colonial situation which partially or completely destroys the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations", and resolution 2429 (XXIII), by which the Assembly requested "the administering Power to terminate the colonial situation in Gibraltar" and reaffirmed that the colonial situation was incompatible with the Charter of the United Nations.

37. The third aspect had to do with the process of negotiations between the United Kingdom and Spain, which constituted an appropriate framework for the settlement of Gibraltar's colonial situation. Since 1973, and in the light of the doctrine laid down by the United Nations, the General Assembly had been consistently urging the two Governments to pursue bilateral negotiations with a view to putting an end to a situation which affected both the United Kingdom (as the colonial Power recognized by the Treaty of Utrecht) and Spain (since the colony in question was on Spanish territory).

38. The two countries had undertaken, under the joint declaration which they had signed in Brussels in 1984, to begin negotiations on the future of Gibraltar which would deal with the issues of sovereignty and cooperation with a view to preserving their mutual interests. Those negotiations had been ongoing since 1985.

39. The Spanish Government continued to advocate dialogue and it was determined to pursue the negotiations in a constructive spirit with the hope that a solution would be achieved in the dispute over Gibraltar.

40. The representatives of the inhabitants of Gibraltar had taken part in the negotiations alongside the British delegation, until they had decided to withdraw, in 1988. The Spanish Government had thought that the decision to withdraw had been made by the local authorities, but the fact that they had chosen to exclude themselves had been regrettable and it was to be hoped that the representatives of Gibraltar would reconsider their decision and return to the process.

41. His country continued to hold the inhabitants of Gibraltar in the highest regard; it hoped that they would prosper and progress, and bore them no ill will. The Spanish authorities had proven time and time again that they were fully prepared to duly respect the legitimate interests, status and special circumstances of the inhabitants of Gibraltar.

42. His country was fully prepared to guarantee respect for those three elements, in the context of a negotiated solution which would at last end the controversy over Gibraltar and would involve the restoration of Spain's territorial integrity, in accordance with the resolutions of the General Assembly.

QUESTION OF NEW CALEDONIA (A/AC.109/2074; A/AC.109/L.1861)

43. Mr. RABUKA (Fiji), introducing draft resolution A/AC.109/1861, which his delegation and that of Papua New Guinea had submitted and which reflected the terms of the resolution adopted on the question of New Caledonia at the fifty-first session of the General Assembly, said that the first pages of the working paper prepared by the Secretariat (A/AC.109/2074) traced the history of the question over approximately one decade and, in particular, over the last few months. At a meeting held recently in Fiji, the president of the Kanak and Socialist National Liberation Front (FLNKS) had informed a South Pacific Forum group of the events that had taken place in New Caledonia. Things were moving in the right direction but some points still gave rise to concern and for that reason it was important carefully to consider to the relevant documents. The Committee should take into account the concerns of the South Pacific Forum and ensure that the people of New Caledonia effectively exercised their right to self-determination.

44. Mr. OVIA (Papua New Guinea) said that members of the Committee should adopt the draft resolution without a vote. He recalled that a referendum on self-determination was to be held in New Caledonia in 1998, and explained that the draft resolution aimed to facilitate France's work there. Since France had ceased nuclear testing in the South Pacific, it had maintained good relations with the countries of the region including Papua New Guinea, which therefore wished to foster understanding and cooperation. It was clear that France had a role to play in the region and its involvement in New Caledonia was to be encouraged.

45. Mr. SOW (Mali) proposed that the word "provincial" in paragraph 7 of the draft resolution should be replaced by the word "territorial".

46. The CHAIRMAN suggested that the Committee should adopt the draft resolution, as orally revised by the representative of Mali.

47. The draft resolution, as orally revised, was adopted.

48. The CHAIRMAN said that the Committee had concluded its consideration of the item.

QUESTION OF WESTERN SAHARA (A/AC.109/2087)

Hearing of a petitioner

49. At the invitation of the Chairman, Mr. Boukhari (Frente POLISARIO) took a place at the petitioners' table.

50. Mr. BOUKHARI (Frente POLISARIO), after briefly reviewing the history of the peace process in Western Sahara, said that Morocco had contravened the settlement plan developed by the United Nations and the Organization of African Unity with a view to the holding of a referendum on self-determination for the Saharan people, immediately after having agreed to the plan in 1991. Immediately upon the entry into force of the ceasefire in September 1991, Morocco had blackmailed the United Nations and had sought to impose the participation of Moroccan settlers in Western Sahara in the referendum on self-determination.

51. Those manoeuvres had succeeded and, taking advantage of the relaxed vigilance of the sponsor of the peace plan, the Government of the occupying Power had obtained a unilateral modification of the plan. The intention had been to encourage the United Nations to endorse the holding of a colonial-type referendum, or to put an end to the process of decolonization set in motion by the settlement plan.

52. Since the date on which the referendum should have been held, January 1992, the only element of the settlement plan that had been respected had been the ceasefire. The intransigence of the occupying Power posed a dramatic dilemma for the Saharan people: they must either accept a permanent ceasefire and totally give up the idea of a referendum, or have the United Nations withdraw completely and the armed conflict resume. While the consequences of the second option were obvious, it should be stressed that, if the United Nations were to show itself to be in favour of the first option, it would be condoning colonialism and rubber-stamping the illegal occupation of Western Sahara.

53. The Charter of the United Nations and the decisions of the International Court of Justice imposed obligations on Member States with regard to the resources of a territory in the process of decolonization. The fishing agreements signed by the European Union with Morocco were therefore illegal with regard to the Western Saharan coast. The Committee must discourage all States Members of the United Nations from taking part, directly or indirectly, in the exploitation of Western Saharan resources, including the development of its ports.

54. He welcomed the nomination of Mr. James Baker as Personal Envoy of the Secretary-General and recalled that, when Mr. Baker had visited the region in April 1996, the Frente POLISARIO had unconditionally released 85 Moroccan prisoners of war. In 1988, it had released 200 other prisoners, whose repatriation Morocco had not authorized until six years later. Meanwhile, 15 of those prisoners had died. It had not yet been possible to repatriate the 85 prisoners released in April, as the Moroccan Government had not agreed.

55. The peace process was at a crucial stage and the Committee should follow it closely. The international community could not rubber-stamp the act of aggression perpetrated by Morocco in 1975, in defiance of the Charter of the United Nations and of international law. The United Nations and the Special Committee had a real responsibility in that regard and must do all in their power to bring the process of decolonization in Western Sahara to a successful conclusion, in accordance with the principles of the Charter, and to ensure the organization of a free and impartial referendum on self-determination. It was paradoxical that a Member State could violate international law and still retain the privileges of membership.

56. He recalled that the Saharan people were profoundly attached to their right to independence. That right had been recognized by the international community, and the Saharan people would never renounce it.

57. Mr. Boukhari withdrew.

58. The CHAIRMAN said that the Committee had concluded its consideration of the item.

OTHER MATTERS (A/AC.109/L.1862)

59. The CHAIRMAN drew attention to draft resolution A/AC.109/L.1862 on the decolonization programme in the United Nations system, which had been submitted by Papua New Guinea.

60. Mr. STANISLAUS (Grenada) and Mr. BREIER (Venezuela) informed the Committee that their countries wished to become sponsors of the draft resolution.

61. Mr. SOW (Mali) said that paragraph 2 of the French version of the draft resolution should be amended. He suggested that the words "et avec la Commission des questions politiques spéciales et de décolonisation" should be replaced by the words "au sein de la Commission des questions politiques spéciales et de décolonisation". In paragraph 1, the words "continue to" could be added, so that the paragraph would read as follows: "Urges the Secretary-General to continue to avail the Decolonization Branch of all necessary and adequate financial, human and technical resources;".

62. Mr. ARAIM (Secretary of the Committee) read out the list of sponsors of the draft resolution, which included Antigua and Barbuda, Bolivia, Chile, Côte d'Ivoire, Cuba, Grenada, the Islamic Republic of Iran, Mali, Papua New Guinea, Portugal, Saint Lucia and Venezuela.

63. The CHAIRMAN suggested that the Committee should adopt the draft resolution, as orally revised by the delegation of Mali.

64. The draft proposal, as orally revised, was adopted.

The meeting rose at noon.